

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

**IN RE: PHARMACEUTICAL INDUSTRY AVERAGE
WHOLESALE PRICE LITIGATION**

THIS DOCUMENT RELATES TO:
International Union of Operating Engineers,
Local No. 68 Welfare Fund v. AstraZeneca PLC, *et al.*

MDL No. 1456
C.A. No. 01-12257-PBS

Judge Patti B. Saris

**MOTION TO FILE UNDER SEAL AFFIDAVIT OF DONALD E. HAVILAND, JR.
IN SUPPORT OF SUPPLEMENTAL BRIEF IN SUPPORT OF REMAND BY
PLAINTIFF, INTERNATIONAL UNION
OF OPERATING ENGINEERS, LOCAL NO. 68 WELFARE FUND,
IN RESPONSE TO COURT'S DIRECTIVES OF JANUARY 27, 2006, AND
IN RESPONSE TO ORDER OF FEBRUARY 2, 2006 AND EXHIBITS THERETO**

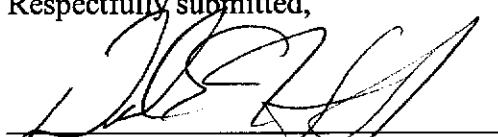
Plaintiff, International Union of Operating Engineers, Local No. 68 Welfare Fund ("Plaintiff" or "Local 68"), respectfully moves, by and through its counsel, this Honorable Court for leave to file under seal the Affidavit of Donald E. Haviland, Jr. in Support of Supplemental Brief in Support of Remand by Plaintiff, in Response to Court's Directives of January 27, 2006, and in Response to Order of February 2, 2006, with attached Exhibits ("Haviland Affidavit"). As set forth in the Notice of Compliance with the Court's Directive of January 27, 2006 by Plaintiff, International Union of Operating Engineers, Local No. 68 Welfare Fund, Respecting the Production of Additional Documents and a Privilege Log, filed on February 3, 2006 ("Notice of Compliance"), the documents produced to AstraZeneca, some of which are discussed in and attached to the Haviland Affidavit, were initially withheld as privileged, confidential and non-discoverable because they pertained to confidential settlement negotiations between counsel for Plaintiff and counsel for the doctor defendants. At the hearing held on January 27, 2006, this Court directed Plaintiff to produce such

previously withheld documents and precluded Plaintiff from relying upon any claim of settlement privilege or confidentiality in continuing to withhold documents exchanged between counsel for Plaintiff and counsel for the doctor defendants. While Plaintiff has produced the documents to counsel for AstraZeneca in compliance with the Court's directive, it has done so with the express reservation of the right to challenge the matter of the production on appeal should the same prove necessary if remand were to be denied. For this reason, Plaintiff respectfully requests that the Haviland Affidavit and certain documents attached thereto as Exhibits, namely Exhibits A-B, G-N, Q, which constitute a subset of the documents produced according to the Court's directive, be sealed in order that no claim of waiver by Plaintiff may be asserted by AstraZeneca on appeal.

Date: February 10, 2006

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ATTORNEYS FOR PLAINTIFF AND THE CLASS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to File Under Seal Affidavit of Donald E. Haviland, Jr. In Support of Supplemental Brief in Support of Remand by Plaintiff, International Union of Operating Engineers, Local No. 68 Welfare Fund, Per Court's Directive of January 27, 2006 was served on all counsel via LexisNexis pursuant to Case Management Order No. 2. The parties listed below are not registrants of LexisNexis and are being served First Class Mail and facsimile:

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